

Message Text

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PAGE 01 STATE 010674

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TO AMEMBASSY MEXICO

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TAGS: CASC, MX

SUBJECT: ADMINISTRATOR'S STATEMENT AT FORTHCOMING
CONGRESSIONAL HEARING ON AMERICAN PRISONERS IN MEXICO

FOR JOVA FROM WALENTYNOWICZ

1. FOLLOWING IS PROPOSED STATEMENT WHICH ADMINISTRATOR
PLANS PRESENT AT FORTHCOMING SUBCOMMITTEE HEARING ON AMERI-
CANS IMPRISONED IN MEXICO.

2. "I WISH TO THANK THE SUBCOMMITTEE FOR THIS FURTHER OPP-
ORTUNITY TO REPORT ON OUR REVIEW OF AMERICAN PRISONERS IN
MEXICO, AND ON THE RESULTS OF OUR EFFORTS TO AMELIORATE
THOSE PROBLEMS FACED BY PRISONERS WHICH GO BEYOND THE GEN-
ERAL SITUATION OF INCARCERATION.

3. "TO COMPLY WITH THE SUBCOMMITTEE'S DESIRE FOR INFORMA-
TION, I WOULD LIKE FIRST TO DISCUSS THE STATISTICAL
RESULTS OF THE REVIEW ITSELF AND TO MAKE SOME GENERAL
COMMENTS ON OUR FINDINGS.

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PAGE 02 STATE 010674

4. "SUMMARY OF CASE REVIEWS AND STATISTICS

TO BEGIN, THE FOLLOWING IS A SUMMARY OF WORK DONE ON CASE REVIEWS AND THE RESULTING STATISTICS. CASE REVIEWS HAVE BEEN COMPLETED ON ALL AMERICAN PRISONERS WHOSE NAMES APPEAR IN H. RES. 313, H. RES. 795, AND S. RES. 201, AND THE MAJORITY OF THOSE AMERICANS WHO WERE IN MEXICAN JAILS AS OF JULY 21, 1975, EXCLUDING THOSE WHO HAD BEEN RELEASED (BEGIN FOOTNOTE AS THE REVIEW PROGRESSED, A NUMBER OF PRISONERS WERE RELEASED, EITHER THROUGH EXONERATION OR COMPLETION OF THEIR SENTENCE. FURTHER INVESTIGATION OF COMPLAINTS IN THESE CASES, WHILE PERHAPS ADDING INFORMATION TO THE TOTAL PICTURE, WOULD NO LONGER HAVE BENEFITED THE INDIVIDUAL DIRECTLY, AND ON THE BASIS OF COMMON SENSE AND TO FACILITATE THE REVIEW WE DECIDED TO CONCENTRATE ON THOSE WHO STILL MAY BE IN NEED. THEREFORE WE DID NOT REQUIRE REVIEWS IN THE CASES OF RELEASED PRISONERS EXCEPT AS TIME ALLOWED, OR AS DICTATED BY A STILL CURRENT ISSUE SUCH AS AN EXTORTIONATE ATTORNEY OR RETRIEVAL OF PROPERTY. END FOOTNOTE) FROM PRISON BEFORE REVIEWS COULD BE MADE.

5. "STATE DEPARTMENT RECORDS INDICATE THAT THERE WAS A TOTAL OF 535 AMERICANS INCARCERATED IN MEXICAN PRISONS AS OF JULY, 1975. 432 CASES HAVE BEEN REVIEWED. OF THESE, 306 CASES ARE CONSIDERED COMPLETE, INDICATING THAT ALL ALLEGATIONS AND COMPLAINTS HAVE BEEN THOROUGHLY INVESTIGATED, AND A CONCLUSION REACHED. ANOTHER 126 CASES REMAIN OPEN. THE PANEL IS STILL INVESTIGATING THESE CASES, SEEKING ADDITIONAL DATA TO ENSURE THAT ALL ALLEGATIONS OR

COMPLAINTS ARE THOROUGHLY RESOLVED. WHERE INDICATED BY THE FINDINGS OF THE REVIEW, CORRECTIVE ACTION IS BEING TAKEN BY THE APPROPRIATE POST.

6. "THE REVIEWS CENTERED ON A WIDE RANGE OF COMPLAINTS AND ALLEGATIONS, WHICH, FOR PURPOSES OF STATISTICAL ANALYSIS, WERE SUBSUMED UNDER SEVERAL BROAD HEADINGS. IN ADDITION TO THE INVESTIGATION OF THE MAJOR COMPLAINTS AND ALLEGATIONS MADE BY THE PRISONERS, THE REVIEW PANEL INITIATED INQUIRIES IN SEVERAL OTHER AREAS IN WHICH IT FELT LIMITED OFFICIAL USE

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PAGE 03 STATE 010674

CORRECTIVE ACTION MIGHT BE REQUIRED OR WHICH WOULD PROVE OTHERWISE HELPFUL. FINDINGS HAVE BEEN RECORDED AS 'SUBSTANTIATED', 'UNSUBSTANTIATED', OR 'INCONCLUSIVE'. 'SUBSTANTIATED' FINDINGS ARE THOSE WHICH, IN THE REVIEW PANEL'S JUDGMENT, CONTAIN SUFFICIENT DOCUMENTED EVIDENCE TO SUPPORT THE COMPLAINT. 'UNSUBSTANTIATED' FINDINGS ARE THOSE IN WHICH THE REVIEW PANEL HAS DETERMINED THAT SUFFICIENT EVIDENCE HAS BEEN DEVELOPED TO INDICATE THAT THE

COMPLAINT WAS UNJUSTIFIED. 'INCONCLUSIVE' FINDINGS ARE THOSE IN WHICH THERE IS INSUFFICIENT EVIDENCE AVAILABLE TO MAKE EITHER OF THE OTHER TWO FINDINGS. THIS IS PARTICULARLY REFLECTED IN SUCH COMPLAINTS AS 'ABUSE AT TIME OF ARREST' AND 'ABUSE IN PRISON' WHERE COMPLAINTS WERE OFTEN MADE MANY MONTHS AFTER THE ALLEGED OCCURRENCE, NO TIMELY COMPLAINT OF THE ALLEGED INCIDENT WAS REGISTERED WITH (OR BY) THE VISITING CONSULAR OFFICER, AND THEREFORE NO PHYSICAL EFFECTS WERE EVIDENT. SIMILARLY, IT IS DIFFICULT TO VERIFY COMPLAINTS OF CONFISCATION OF PERSONAL PROPERTY WHEN RECEIPTS HAVE NOT BEEN GIVEN, OR OF CONFIRMING EXTORTION BY AN ATTORNEY IN THE ABSENCE OF A WRITTEN CONTRACT OR AGREEMENT. DESPITE THE FACT THAT THE EVIDENCE OR LACK THEREOF IN THIS CATEGORY IS 'INCONCLUSIVE', IT SHOULD BE NOTED THE PANEL BELIEVES THAT THESE COMPLAINTS AND ALLEGATIONS HAVE SOME MERIT SINCE THEY FORM A CREDIBLE PATTERN. THIS CONCLUSION IS REACHED EVEN THOUGH ANOTHER PATTERN SIMILARLY EMERGED FROM THIS REVIEW INDICATING THAT A LARGE NUMBER OF THE COMPLAINTS RESULTED FROM SELF-SERVING EFFORTS BY THE PRISONERS TO DIVERT ATTENTION FROM THEIR GUILT TO SECURE THEIR FREEDOM.

7. "A SUMMARY OF THE ALLEGATIONS AND COMPLAINTS, THE REVIEW PANEL'S FINDINGS, AND THE CORRECTIVE ACTIONS WHICH HAVE BEEN TAKEN FOLLOWS.

ALLEGATION OR COMPLAINT: ACCESS - COVERS THE PROBLEM OF DENIAL OF CONSULAR AND/OR LEGAL ACCESS TO A PRISONER BY MEXICAN AUTHORITIES AT THE TIME OF ARREST.

TOTAL NO. 120.

SUBSTANTIATED FINDINGS 85.
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PAGE 04 STATE 010674

UNSUBSTANTIATED FINDINGS 11.

INCONCLUSIVE FINDINGS 24 (BEGIN FOOTNOTE THE NUMBER OF INCONCLUSIVE FINDINGS IN THIS CATEGORY RESULTS PARTIALLY FROM THE DESTRUCTION OF FILES IN A FIRE THAT OCCURRED AT ONE CONSULATE LAST APRIL, AND PARTIALLY FROM INCOMPLETE RECORD KEEPING AT OTHER POSTS. RECORD KEEPING PROCEDURES HAVE NOW BEEN STANDARDIZED AND EXPANDED AT ALL POSTS IN MEXICO. END FOOTNOTE)

CORRECTIVE ACTION TAKEN: MOST OF THE SUBSTANTIATED CASES OF DENIAL OF ACCESS HAVE BEEN PROTESTED. SOME HAVE BEEN PROTESTED FORMALLY, BY NOTE, TO THE MEXICAN GOVERNMENT. OTHER CASES, USUALLY OUTSIDE MEXICO CITY, HAVE

BEEN PROTESTED TO LOCAL AUTHORITIES. THOSE CASES WHICH WERE NOT PROTESTED REPRESENT EITHER AN UNWILLINGNESS ON THE PART OF THE PRISONER TO HAVE HIS NAME INCLUDED IN A NOTE OF PROTEST - OFTEN FOR FEAR THAT THIS MIGHT JEOPARDIZE HIS CASE - OR THE DECISION BY THE EMBASSY THAT AN INDIVIDUAL PROTEST WOULD BE INEFFECTIVE BECAUSE TOO GREAT A TIME HAD ELAPSED SINCE THE OCCURRENCE. IN ALL CURRENT ARREST CASES WHERE DENIAL OF ACCESS IS INVOLVED, IF THE PRISONER CONCURS OFFICIAL PROTESTS ARE PROMPTLY MADE. AS REPORTED IN OCTOBER THE MEXICAN GOVERNMENT HAS ISSUED INSTRUCTIONS T

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